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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Forty-ninth session

SUMMARY RECORD OF THE 1164th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 9 August 1996, at 10 a.m.

Chairman: Mr. BANTON

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The meeting was called to order at 10 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 5) (continued)

Fifth to seventh periodic reports of the People's Republic of China (CERD/C/275/Add.2) (continued)

1. At the invitation of the Chairman, the delegation of the People's Republic of China took places at the Committee table.

2. Mr. SHERIFIS expressed appreciation for the abundance of information provided orally and the quality of the written report, which had been prepared in accordance with the Committee's guidelines, and had taken into account the Committee's comments in respect of China's previous report.

3. Much information had been provided about China's 55 minority nationalities, and he asked, with reference to paragraphs 58, 59 and 60 of the report how the Chinese Government ensured the participation of those nationalities at the highest levels in the Executive, the judiciary and the civil service.

4. With regard to article 14 of the Convention, he wondered whether the Chinese Government envisaged making the optional declaration in the near future. Furthermore, he wondered whether the Chinese Government envisaged early ratification of the amendments on the financing of the Committee adopted at the 14th Meeting of States Parties, given that only 17 States so far appeared to have ratified and a two-thirds majority was required.

5. Noting in paragraph 67 of the core document (HRI/CORE/1/Add.21) that the Chinese authorities made their report to CERD available to the public, he asked whether the content of the debate in the Committee and the Committee's concluding observations were also made public.

6. Mr. de GOUTTES said that, despite the amount of information in the report, the Committee needed to delve deeper and verify the real situation in China, given that information on that country was not easily obtainable, possibly because of the lack of transparency on the part of the authorities, and it was necessary to rely on information from other sources such as human rights organizations and NGOs. His comments were therefore based on the report, the core document, the conclusions of other United Nations human rights bodies and information provided by various NGOS and the United States Department of State.

7. In the general context of the implementation of the Convention, the encouraging information in the report was not borne out elsewhere. A report by Amnesty International, stated that several regions of China, notably Tibet, the Xinjiang and Inner Mongolia, experienced frequent violations of human rights, religious persecution, dysfunction of the justice system, and strict socialist control of the press and media. The most alarming information concerned Tibet, which the Committee had discussed at length in 1990. Amnesty International reported that the attitude of the Chinese authorities had hardened and that there were considerable ethnic and racial discrimination

against the Tibetan population, in the form of birth-control campaigns and enforced abortions, particularly in the urban areas. There was also a continued policy of settling Chinese farmers and Hani people in Tibet, and replacing Tibetan by Chinese officials at all administrative levels. Military personnel were also made to settle in Tibet in order to obtain pension rights. Religious freedom and cultural traditions were under attack: monks were arrested, the monasteries closed and demolished and the display of pictures of the Dalai Lama banned. There was also very strict political control of the media and information in general, discrimination in education whereby young Tibetans were deprived of educational facilities, and environmental damage caused by deforestation and the storage of toxic wastes. Such information, if accurate, was tantamount to institutionalized ethnic and racial discrimination designed to deprive Tibetans of their national identity. The Committee would welcome comments from the Chinese delegation on all those points.

8. With regard to paragraph 28 of the report, he wished to know what was meant by the development of socialist ethnic relations under the Ten-Year Plan on National, Economic and Social Development proposed by the State Council.

9. With regard to paragraph 49, he wondered what legal instruments or acts were used to deal with ethnic discrimination. The Committee would welcome statistics and specific examples of cases taken to court by the authorities, as only one example had been given in the report.

10. Turning to paragraphs 28 and 29 of the core document (HRI/CORE/1/Add.21), he asked for information on the role of the people's courts and people's procuratorates in combating racism and for examples of cases in which they had acted. He also wished to know the present status of the form of detention known as "re-education through work" which might be imposed on dissidents, human rights militants, and religious groups, particularly Catholic and Protestant, as referred to in the 1993 Amnesty International report.

11. Lastly, he wished to know whether all national minorities, including Tibetans, enjoyed the freedom to effect exchanges with foreign countries, as stated in paragraph 117 of the report.

12. Mr. DIACONU said that the Committee would welcome more information on the system of autonomous regions in China. What was the legislative competence of the authorities of the autonomous areas and were there any cases in which the Standing Committee of the National People's Congress had annulled legislation passed by those authorities? If so, what were the reasons for such annulment? Were the representatives of the autonomous regions in the Beijing Parliament elected only by those regions themselves or on the basis of proportional representation, and were the scattered minorities also represented? What languages were used in the central and local governments?

13. The Committee received many reports about Tibet and needed to deepen its understanding of the situation in that area. The demographic situation was an important indicator as a regularly increasing population was a thriving population. Some demographic information had been given at the Committee's previous meeting but more information would be useful. He particularly sought information on the ethnic composition of the local authorities and the relative proportions of Tibetans and Han. What language was used in their

activities? Did Tibetan cultural institutions still exist and was Tibetan culture and civilization still studied in schools? Were teachers trained in the mother tongues of the minorities in the autonomous areas?

14. With regard to article 4 of the Convention, paragraph 49 of the report referred to the banning of any domestic organization which propagated racial discrimination. He wished to know under which provisions of the Penal Code or other legislation such organizations were banned.

15. The report made very brief reference to legal remedies in connection with article 6 and he asked which bodies could be approached for reparation for human rights violations.

16. With Hong Kong due to become part of China in 1997, he asked whether China intended to guarantee Hong Kong autonomous status similar to that of other regions.

17. According to paragraph 52 of the core document (HRI/CORE/1/Add.21), international treaties took precedence over domestic law except where China had entered reservations. Could the Convention be invoked directly in the courts or administrative bodies?

18. Mr. VALENCIA RODRIGUEZ said that the programmes, laws and other measures taken to improve the lot of the minorities, and the efforts made to improve agricultural and industrial production deserved full recognition, but more information on those activities was needed to enable the Committee to assess their success.

19. With regard to paragraph 33 of the report, he wondered how foreign trade was regulated in China and what role, if any, the central Government played in the minority regions in that respect. Could those regions trade with any country they wished?

20. With regard to article 4, China appeared to be following the correct procedures in the circumstances referred to. However, the Chinese Government should reconsider the degree of conformity between its domestic legislation and article 4 of the Convention.

21. With regard to the State Compensation Law quoted in paragraph 73 of the report in connection with article 6 of the Convention, he wondered what would happen in the case of an unlawful act committed by an individual and whether he could be made to compensate the victim.

22. The extensive information regarding the implementation of article 7 was satisfactory particularly in respect of the improvements in the situation of minority groups. However, that information should be expanded. The Committee would be particularly interested to receive details of measures taken with regard to information.

23. According to paragraphs 37, 69, 71, certain paragraphs in connection with article 7, which had already been supplemented by the delegation, the situation in Tibet appeared to have improved considerably. However, the report did not contain any replies to the comments and questions raised by

the Committee in connection with China's previous report, as contained in paragraphs 118 to 121 of the Committee's report to the General Assembly (A/45/18). As most of those comments and questions had been restated at the present session, he asked the Chinese delegation to include that information in its next periodic report.

24. Mr. SHAHI noted that China was a unitary multilingual State and that its nationalities policy was aimed at combating chauvinism, mainly by the Han population. Bearing in mind that the Hans totalled some 1.1 billion and the national minorities comprised some 90 million, the Chinese authorities were to be commended for their awareness of Han chauvinism and the need to assure the national minorities that they would not be subjected to chauvinistic policies.

25. He also noted that the Chinese Constitution prohibited discrimination or oppression of any nationality. In that connection the Committee much appreciated the information provided orally the previous day and particularly the detailed statistical tables showing the population and main geographical distribution of Chinese national minorities. The charts did not, however, contain any reference to the Kazaks who had been referred to in the core document (HRI/CORE/1/Add.21). Clarification of that situation was requested.

26. Reference was made in paragraph 52 of the core document to the use of domestic law for guidance where no specific provision occurred in an international human rights instrument. Further clarification was needed. Furthermore, although paragraph 51 stated that no further special legal transformation was required to turn an international human rights agreement into domestic law, he wondered how China punished transgressions under article 4 of the Convention. Might not special laws prescribing punishment for such offences be enacted?

27. In the light of widespread concern in the international press that, as a result of Chinese policy of immigration into Tibet, Tibetans were becoming a minority in their own region, he was reassured to read that in 1995 Tibetans accounted for 96.38 per cent and Chinese of Han nationality 3.3 per cent of the population in Tibet, as opposed to 3.7 per cent in 1990. He noted with regard to Chinese policy towards the Dalai Lama, that the door was still open to negotiations on the condition that the Dalai Lama did not demand independence for Tibet. He hoped that there would be a possibility for negotiations on the Tibetan question with the Chinese authorities.

28. He was particularly appreciative of the frankness of the head of delegation's statement acknowledging some inequality of treatment and disparities between the living conditions of minorities and those of the Han majority, and hoped that the Government would continue to give all due attention to improving the living standards of the national minorities.

29. Mr. van BOVEN asked for further clarification, in a future periodic report or core document, of what exactly was meant by autonomous regions and national or minority autonomous areas. The term "minority area", for instance, led to confusion, since there might be a minority in a given region that was a majority nationwide, and vice versa. He asked whether the community-to-community assistance by economically developed areas to minority areas, referred to in paragraph 19 of the report, meant some kind of

development assistance and on what basis it was provided. It was an attractive concept, but there was always a risk of the donor being in a stronger position in any donor-recipient relationship. Possibly the answer was to be found in the statement in paragraph 28 of the report regarding the emphasis on the "building up and development of socialist ethnic relations", which was the only place in the report where the word "socialist" appeared, although it was in the preamble to the Constitution. He wished to know what the concept of socialism meant in China today, since it might have important implications in regard to the political system and political party power and hence be relevant to the Convention.

30. Noting China's policy of combating chauvinism, including Han chauvinism, as referred to by Mr. Shahi, he asked whether that was to be understood in terms of the wording of article 4 of the Convention, referring to condemnation of propaganda based on ideas of superiority of one race or group of persons of one ethnic origin. He requested further information in future on actual cases concerning the right to compensation or reparation for victims of racial discrimination under article 6 of the Convention.

31. Endorsing other speakers' questions about autonomous regions, he drew attention to the example of Inner Mongolia, where he understood Mongolians now accounted for only a small proportion of the total population and were alienated from their culture and roots, asking what could be done to preserve the culture of Mongolians in their own region. With regard to the Tibet Autonomous Region, he asked who exercised political leadership in Tibet and, with reference to article 5 (c) of the Convention, what the situation was with respect to political parties. He was concerned about the effects of Han immigration and reports of consequent preferential treatment in employment, housing and medical care, and the higher mortality rate among Tibetans. In higher education, it was reported that 55 per cent of students at the University of Tibet were Han Chinese, who officially represented only 3 per cent of the population. He was grateful that a paragraph (para. 69) had been included in the report on the subject of the Panchen Lama's reincarnation, but wondered whether the State Council's apparently major role in the process did not constitute intervention in certain religious affairs; further information on the State Council's functions in that regard was requested. In conclusion he associated himself with Mr. Sherifis' question about the implementation of article 14 of the Convention and ratification of the amendments to the Convention, and asked to what extent the Convention was disseminated in China and whether its report and the Committee's concluding observations would be made public.

32. Mr. RECHETOV welcomed in particular the comprehensive demographic data provided by China. He appreciated the emphasis placed on the economic development of the disadvantaged national minority areas as a prerequisite for any other form of development. He shared Mr. Wolfrum's concern about the need to develop infrastructure in remote areas, and commended the efforts that were being made to that end. Credit was due to China for recognizing and conferring autonomous status on so many different national minorities, which undoubtedly contributed to their development, although, as experience in his own country had shown, the granting of autonomy could lead to a proliferation of authorities. The action taken to preserve both local and national languages was also commendable.

33. The situation in Tibet had received wide media coverage, inter alia concerning the potentially serious effects of immigration. That being said, China and Tibet should be viewed in the context of general world developments and the widespread process of secularization. India, too, with its traditional caste system, faced problems in finding the appropriate place for religion in a secular State. In keeping with the Convention, it was important to ascertain the extent to which a local population was able to enjoy and practise its own culture and traditions and profess its own religion. Religious institutions must be safeguarded, but a problem arose when they aspired to be the supreme or sole authority. He was not sure that that was in keeping with the spirit of contemporary society. Religion should be in tune with the needs of the whole population, and not just a minority. In conclusion, he hoped that China would advance still further on the path to democracy and respect for human rights and the rights of minorities, bearing in mind the sometimes adverse effects of a purely rational approach to development.

34. Mr. YUTZIS said that China had embarked on a path that afforded very significant opportunities for development. He acknowledged its interesting, if controversial, economic approach, namely one country, two systems. The Committee's concern in that regard focused on the effects of such development on the situation of minorities. The fundamental goal of development had significantly transformed those populations' way of life. Gradually, whether deliberately or not, the close bonds between an ethnic group and the lands it inhabited had changed. It would be useful to hear further explanations of the rationale behind the development model adopted, bearing in mind the effects and limitations of the development process. He had a special interest in the regions inhabited by Mongolians.

35. Mr. CHIGOVERA requested clarifications about the impact of the delegation of certain powers to the national autonomous areas - referred to in paragraphs 11, 15 and 16 of the report - on China's implementation of its obligations under the Convention. Paragraphs 47 to 52 concerning article 4 of the Convention, for instance, seemed to deal with central government activities and obligations, but did not indicate how the Convention would be implemented at the autonomous area level. Furthermore, apart from a reference in paragraph 10 to the Basic Law of Macao, there was no reference to any specific provisions to prohibit racial discrimination within the meaning of the Convention. Precise information in that regard, especially concerning article 4, would help the Committee to assess the State party's compliance with the Convention. He would also be interested to know what differences there were, in terms of administrative and legislative powers, between the autonomous counties and prefectures, and their respective roles in ensuring compliance with the Convention.

36. The CHAIRMAN drew attention to General Recommendation XIX (47) on article 3 of the Convention, adopted by the Committee in August 1995, and requested the Chinese authorities, in preparing the next periodic report, to consider the bearing of the General Recommendation on parts of the country where there had been population transfers.

37. Mr. WU Jianmin (China) recalled that several questions had been asked about the status of autonomous areas. China was a unified and multi-ethnic

State, but it was not a federal one; all the autonomous areas formed an inalienable part of Chinese territory, although they had certain special characteristics. They were allowed to adopt their own regulations in certain fields and adapt instructions from the central Government to local conditions; they were entitled to use one or more of the minority languages; they had the right to train professional and skilled workers and managers from the autonomous areas; and they had a certain amount of freedom to manage their own local economies, including border trade and the management of local resources, and approve their own budgets. They could for instance approve joint ventures with foreign companies provided that the total value of the venture did not exceed US$ 30 million. They organized their own education, media and medical services using minority languages, and had some responsibility for population policy and family planning.

38. The Notification on Several Questions Concerning the Implementation of the Regional National Autonomy Law, mentioned in paragraph 17 of the report, was not a law, but a notice issued to government departments by the State Council, the supreme executive body of the Chinese State. Its purpose was to protect the interests of minorities and speed up the development of the autonomous areas.

39. China had a total of 56 ethnic groups - the Han Chinese, who made up 92 per cent of the population, and 55 minority groups, who together numbered approximately 90 million people. All ethnic groups were equal under the Chinese Constitution and had the same right to participate in public affairs. In fact, the 55 national minorities were represented by 439 deputies, or 14.75 per cent, of the 2,900 deputies in the legislative body, the National People's Congress, even though they made up only 8 per cent of the population. Members of ethnic minorities occupied important positions, such as that of Deputy Chairman of the National People's Congress and President of the Supreme People's Court.

40. Ms. WANG Yuehua (China) said that the Chinese Constitution was the fundamental law of the country and took precedence over all other laws and regulations, including the Regional National Autonomy Law.

41. The Mother and Child Care Law, referred to by Mr. Wolfrum, was not intended to control population growth, but to improve the health of mothers and children. It incorporated specific regulations governing the care of pregnant women and infants into the country's social and economic development plans and provided for special medical care and financial support for remote and poorer areas.

42. Under article 41 of the Constitution, citizens had the right to make criticisms and recommendations to the State and State organs. They could complain to local people's congresses, representatives of the Chinese People's Political Consultative Conference or the relevant administrative organs.

43. China considered that the rights enshrined in article 5 of the Convention were already amply guaranteed by the Chinese Constitution and other relevant laws. Full details had been given in previous reports, and she did not wish to repeat them. Members had pointed out a number of ambiguities in paragraphs 7-10 of the report. She wished to assure the Committee that

the activities of the Chinese Government had been intended to promote the objectives and principles of the Convention and that Chinese law was in full conformity with those objectives and principles. For instance, the laws relating to bilingual education for minority groups fully guaranteed the right to education and training laid down in article 5 (e) (v) of the Convention. The example of the Basic Law of the Special Administrative District of Macao (para. 10), which specifically prohibited discrimination on the grounds of race, was given merely as an example of a recent development, and did not mean that no other such legislation existed elsewhere in China. Paragraph 8 of the report was not intended to imply that China interpreted the struggle against racial discrimination differently from the rest of the world. All the above points could be attributed to problems of translation.

44. The Convention was considered part of Chinese domestic law. Many other laws, including the Civil Code, had specific provisions stating that, if differences existed between domestic law and international treaties to which China was a party, then the international treaty would prevail, unless the Government had lodged a reservation. China did not, therefore, need to incorporate the Convention specifically into domestic law, as other countries did. The Convention was recognized and accepted by Chinese courts and could thus be directly applied. However, since the Convention was often phrased in very general terms, more specific domestic legislation was sometimes required.

45. At present, China had no plans to recognize the Committee's competence to consider complaints from individuals under article 14 of the Convention. She would pass members' comments on to her Government. China had no objection in principle to the proposed amendment of the Convention regarding the financing of the Committee's expenses; however, any amendment to an international treaty was bound to take time.

46. Mr. Sherifis and Mr. van Boven had asked whether the Chinese Government made public its report to the Committee and the Committee's concluding observations. The report was published and publicized through the mass media, and the Committee's conclusions, as published by the United Nations, would be made available in China.

47. Mr. Diaconu had asked whether the Convention would apply in Hong Kong when that province returned to Chinese rule in July 1997. Her delegation understood the Committee's concern: however, under the Joint Declaration between China and the United Kingdom, the current system and lifestyle in Hong Kong would remain unchanged. China would assume responsibility for defence and foreign affairs and take on international rights and obligations in respect of Hong Kong. Since both the United Kingdom and China were parties to the Convention, it would remain in Hong Kong after July 1997.

48. Government representatives had participated in the selection of the eleventh Panchen Lama according to a ritual practised by Tibetan Buddhists since the thirteenth century. The Government's participation in the ritual was a historical convention which had become established over the centuries, and was not a political act.

49. Mr. ZHANG Chongqen (China), in response to Mr. Wolfrum's comment about the rapid increase in the numbers of some minority groups, said that some

minority groups had a naturally high population growth rate, and some which had previously classified themselves as Han Chinese had been reclassified. If one of a child's parents belonged to a national minority, the child could choose to be a member of that minority as well.

50. The Regional National Autonomy Law stated that national minorities with their own written language should use that language in their schools. Students from national minorities needed a good command of their own language as well as Mandarin Chinese. Accordingly, languages such as Tibetan, Mongolian and Korean were used in schools, and textbooks were also printed in those languages. Students from national minorities were able to study foreign languages, including English, Russian, Japanese and Arabic, at university level. His own wife was a professor of English at a university which had many Tibetan students.

51. With regard to the use of minority languages in university entrance examinations, he said that test papers were produced in various minority languages and that the language part of examinations was designed to test the candidates' knowledge of their mother tongue. In the compulsory education system, textbooks in minority languages were widely available. In the case of subjects such as chemistry, physics and mathematics, the standard textbooks used country-wide were translated into minority languages.

52. Mr. YANG Qiru (China) said that State investment in regions populated by minorities, including Tibet, was designed to improve the infrastructure and local amenities such as water resources and transport. In 1984 in Tibet, for example, there had been 43 small and medium-sized projects covering alternative forms of energy, transport, industry, education and culture, communications and food production. Investment had been increased in the ninth five-year plan. Of 60 projects undertaken in Tibet, 40 had been completed and the rest would be finished by the end of 1995.

53. Mr. WU Jianmin (China), replying to the question on the meaning of socialist relations in China, explained that it referred to a society that was free of exploitation and oppression and was based on equality.

54. The information on the Kazak population in China could be found in the documentation circulated among members of the Committee.

55. The dialogue with the Committee was to be commended, as was the information gathered by its members. However, it was not acceptable that, on the basis of that information, the Government of China should be urged to reverse certain of its policies. Members of the Committee should be careful to check the veracity of the information passed on to them because, although some of the groups supplying it had noble goals, others did not and were being financed to conduct separatist activities. China was no different from any other country in its lack of tolerance of separatist and terrorist activities. Most of the news reported on China was negative, but bad news was a saleable commodity. In 1989 and 1990, experts on China had predicted all kinds of disasters in the country, but since that time, China had enjoyed one of the best periods of its history, marked by political stability, double digit economic growth and an improved quality of life. The pamphlets circulated by

non-governmental organizations (NGOs) were one-sided and if the Committee were to judge the situation in China on the basis of such information, it was in grave danger of being misled.

56. With regard to the prison population, all citizens were equal before the law. Anyone that broke that law would be duly punished, regardless of whether they were members of a national minority or not. It should also be remembered that China's crime rate was quite low compared to other countries of the world.

57. Any of the Committee's questions that remained unanswered would be dealt with in China's eighth periodic report.

58. The CHAIRMAN said that the Committee agreed on the importance of checking the reliability of any information it received. The Committee also had to consider how to act when receiving reports from bodies or the media and weigh up its duty to alert the outside world to situations that could lead to serious ethnic conflict.

59. Mr. ABOUL-NASR said that the members of the Committee acted with the very best of intentions. By presenting delegations with the information it received, the Committee could debate it with them and it could be refuted if necessary. All members of the Committee valued States parties' contributions to dialogue and discussion and welcomed the information from Governments.

60. Mr. GARVALOV welcomed the information provided by the delegation on the situation regarding the Panchen Lama.

61. Mrs. SADIQ ALI said that she had not intended to imply support for separatist tendencies, but merely to point out what was contained in General Recommendation XXI (48) regarding the right to self-determination of peoples. If there was turmoil in three autonomous states in China, that seemed to indicate that Government policy there could be improved. There was no implication that China should reverse its policy and allow the autonomous states to secede.

62. Mr. de GOUTTES said that the reliability of sources of information was of constant concern to the Committee and it was important that they should be named. However, it should be remembered that, under General Recommendation 1 (XL), the Committee reserved the right, as a body of independent experts, to refer to information from sources other than States parties.

63. Some of his questions, two of which had been based on information provided by Amnesty International concerning the number of monasteries closed or destroyed in Tibet and the prohibition of pictures of the Dalai Lama in monasteries, had not been answered.

64. Mr. WOLFRUM (Country Rapporteur) said that he was impressed with the level of discussion with the delegation of China. The Committee in no way endorsed, encouraged or initiated separatism in any country.

65. The information on autonomous regions had explained the situation very clearly. However, it seemed that China's interpretation of autonomous and that of the Committee did not coincide, although that was in no way a criticism.

66. The representation of minorities in Communist Party structures had not been fully clarified and information on whether it was true that the percentage of minorities in such structures was low would be welcome. Similarly an ethnic breakdown of the ownership of housing and businesses, again giving percentages, should also be provided.

67. The details on bilingual education and minority language teaching were encouraging. However, was it true that university examinations were not he in all minority languages? Details of the extent to which the Han learned minority languages should be provided in China's eighth periodic report, together with further information on the Mother and Child Care Act.

68. An ethnic breakdown of the prison population would be useful.

69. It would be advisable for the oral presentation, report and concludin observations to be translated into Mandarin and minority languages in China and for the delegation to ensure that the misleading translations in the report were rectified.

70. The Committee was at complete liberty to receive information from NGO Responsibility for the accuracy of any information quoted by a member of th Committee lay ultimately with him or her.

71. The delegation of China withdrew.

The meeting rose at 1.15 p.m.